

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: OHIO EXECUTION
PROTOCOL LITIGATION

: Case No. 2:11-cv-1016

District Judge Edmund A. Sargus, Jr.
: Magistrate Judge Michael R. Merz

This document relates to:
Plaintiff James Frazier

:

**ORDER DENYING, WITHOUT PREJUDICE, MOTION FOR
ACCESS TO PLAINTIFF JAMES FRAZIER'S MEDICAL RECORDS**

This consolidated capital § 1983 case is before the Court on Plaintiff James Frazier's Motion for Access to his medical records in the care, custody, or control of The Ohio State University Wexner Medical Center (ECF No. 2633). That entity is not a party to this litigation. Because it has denied a request for the records directly from Plaintiff's counsel, it would probably wish to be heard by the Court before releasing the records. Defendants' counsel have indicated to Plaintiff's counsel that they will also likely oppose release of the records.

To correctly structure the question for court decision, the Motion is denied without prejudice and it is hereby ORDERED that Plaintiffs' counsel issue a subpoena duces tecum to The Ohio State University Wexner Medical Center for the records counsel desire. Plaintiff's counsel shall file a copy of the subpoena with proof of service and set a prompt return date. Both the Medical Center and Defendants will then have an opportunity to litigate the delivery of the

documents within the context of Fed.R.Civ.P. 45.

November 8, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge